

IN SENATE OF THE UNITED STATES.

FEBRUARY 3, 1846.

Submitted, and ordered to be printed.

Mr. FAIRFIELD made the following

REPORT :

[To accompany bill S. No. 74.]

*The Committee on Naval Affairs, to whom was referred the petition of Henry Etting, ask leave to submit the following report :*

That the petition and evidence in this case substantially show that the petitioner, as a purser in the United States navy, was stationed, in the year 1838, at the navy yard at Pensacola, Florida; that the public moneys in his hands were then by him deposited in the Commercial Bank of New Orleans, then one of the deposite banks of the government, in obedience to a circular order of the Secretary of the Navy, addressed to the pursers of the navy in 1833, and which has never been expressly revoked. While thus deposited, in July, 1838, about seventeen hundred dollars thereof was drawn from the bank by checks, forged, it is supposed, by the person then acting as the clerk of the yard. The amount, thus fraudulently drawn, the bank refused to pay over to the petitioner, who, thereupon, in March, 1839, commenced a suit in his own name for the recovery of it, under the advice of the then United States district attorney, claiming to recover not only the amount thus illegally withheld, with interest, but damages for the consequential injury. The petitioner, soon afterwards, informed the Secretary of the Navy of what had been done; stated that he was acting for and in behalf of the government, and should charge to the government all the expenses that should be incurred; and asking that the suit might be transferred to, or the direction of it be assumed by, the government. This the Secretary of the Navy declined doing. In the court in which the suit was commenced, a verdict was obtained, upon trial, for the petitioner, for the amount drawn by the forged checks, with interest thereon, and five thousand dollars damages. From this an appeal was taken by the bank, and, in the higher court, the verdict was sustained only for the amount illegally withheld by the bank, and interest; which amount was ultimately received by the petitioner.

The suit was protracted through a period of over five years, but without any fault or negligence on the part of the petitioner, so far as the committee can perceive. The expenses incurred in prosecuting that suit, including a reasonable compensation for his own services, beyond what was recovered of the bank, the petitioner asks to be reimbursed; and for those expenses, or such portions as the committee have deemed reasonable and proper, a bill is herewith reported.

IN SENATE OF THE UNITED STATES

FEBRUARY 3, 1846

Read, and ordered to be printed.

Mr. FARRIS made the following

REPORT:

(To accompany H. R. No. 21.)

The Committee on Naval Affairs to whom was referred the petition of Henry Kitting, ask leave to submit the following report:

That the petition and evidence in this case substantially show that the petitioner as a pursor in the United States navy, was stationed in the year 1838 at the navy yard at Pensacola, Florida; that the public moneys in his hands were then by him deposited in the Commercial Bank of New Orleans, then one of the deposite banks of the government, in obedience to a circular order of the Secretary of the Navy, addressed to the masters of the navy in 1833, and which has never been expressly re-voiced. While thus deposited, in July, 1838, about seventeen hundred dollars thereof was drawn from the bank by check, signed, it is supposed by the person then acting as the clerk of the yard. The amount thus fraudulently drawn, the bank refused to pay over to the petitioner, who thereupon, in March, 1839, commenced a suit in his own name for the recovery of it under the advice of the then United States district attorney, claiming to recover not only the amount thus illegally withheld, with interest, but damages for the consequential injury. The petition, soon afterwards, followed the Secretary of the Navy of what had been done; stated that he was acting for and in behalf of the government and should charge to the government all the expenses that should be incurred; and asking that the suit might be transferred to the direction of it be assumed by the government. This the Secretary of the Navy declined doing. In the court in which the suit was commenced, a verdict was obtained upon trial for the petitioner, for the amount drawn by the forged checks, with interest thereon, and five thousand dollars damages. From this an appeal was taken by the bank, and in the higher court the verdict was sustained only for the amount legally withheld by the bank, and interest; which amount was ultimately received by the petitioner. The suit was prosecuted through a period of over five years, but without any fault or negligence on the part of the petitioner, so far as the cost and expense incurred in prosecuting that suit, in claiming a reasonable compensation for his own services, beyond what was recovered of the bank, the petitioner asks to be reimbursed; and that there proper a bill is herewith reported.